

REMARKS

Claims 1-5 and 7-28 are pending in the present application. Reconsideration of the claims is respectfully requested in view of the remarks set forth below.

I. Allowable Subject Matter

Applicant thanks Examiner Vo for the allowance of claims 1-5, 7, 15-19 and 22-26. However, for the reasons set forth hereafter, Applicant respectfully submits that all of the claims are directed to allowable subject matter and that the application is in condition for allowance.

II. 35 U.S.C. § 103, Alleged Obviousness of Claims 8-14, 20-21 and 27-28

The Office Action rejects claims 8-14, 20-21 and 27-28 under 35 U.S.C. § 103(a) as being allegedly unpatentable over Anderson et al (US Patent No. 6,338,119) in view of Linam et al (US Patent No. 6,658,559). This rejection is respectfully traversed.

Applicant respectfully submits that the rejection of claims 8-14, 20-21 and 27-28 is improper under 35 U.S.C. § 103(c). 35 U.S.C. § 103(c) states:

Subject matter developed by another person, which qualifies as prior art only under one or more of subsections (e), (f), and (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person.

Additionally, Section 706.02(l)(1) of the Manual of Patent Examining Procedures (MPEP) states:

Effective November 29, 1999, subject matter which was prior art under former 35 U.S.C. 103 via 35 U.S.C. 102(e) is now disqualified as prior art against the claimed invention if that subject matter and the claimed invention "were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person." This change to 35 U.S.C. 103(c) applies to all utility, design and plant patent applications filed on or after November 29, 1999, including continuing applications filed under 37 CFR 1.53(b), continued prosecution application filed under 37 CFR 1.53(d), and reissues.

The present application was filed on September 28, 2000 (i.e. subsequent to November 29, 1999). In addition, the claimed invention, and the subject matter of Anderson and Linam were, at the time the invention was made, owned by International Business Machines Corporation of Armonk, NY. Therefore, in accordance with 35 U.S.C. § 103(c), the subject matter of Anderson and Linam are disqualified as prior art against the claimed invention. In view of the above, Applicant respectfully requests withdrawal of the rejections to claims 8-14, 20-21 and 27-28 under 35 U.S.C. § 103(a).

III. Conclusion

It is respectfully urged that the subject application is patentable over Anderson and Linam and is now in condition for allowance. The Examiner is invited to call the undersigned at the below-listed telephone number if in the opinion of the examiner such a telephone conference would expedite or aid the prosecution and examination of this application.

DATE: 4, 21, 09

Respectfully submitted,



Patrick C. R. Holmes
Reg. No. 46,380
Carstens, Yee & Cahoon, LLP
P.O. Box 802334
Dallas, TX 75380
(972) 367-2001
Attorney for Applicant